

# Committee on Resources,

## Subcommittee on Energy & Mineral Resources

[energy](#) - - Rep. Barbara Cubin, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6208 - - (202) 225-9297

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## Witness Statement

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Statement of Debbie Laney on behalf of the Women=s Mining Coalition

### Introduction

Good afternoon Congressman Gibbons. My name is Debbie Laney and I am here today as the President of, and on behalf of the Women=s Mining Coalition. The Women=s Mining Coalition is a grassroots organization that supports environmentally responsible mining. Our membership is comprised of women working (or looking for work) in many facets of the mining industry including geology and exploration, engineering, business and management, mining and heavy equipment operation, equipment manufacturing and sales of goods and services to the mining industry. We have a nationwide membership, with members and participants from coal, iron ore, and hard rock mining and manufacturing companies, trade associations, and educational institutions. Our members have direct, day-to-day experience in the industry and with federal and state regulation of mining and exploration.

I work for Barrick Goldstrike Mines, Inc., near Elko, Nevada where I am the Chief Metallurgist for the Process Division. I started working for Barrick last fall, and have worked in the mining industry in Nevada for seventeen years and have been in the industry for a total of 26 years working for gold and copper mines across the West. I hold undergraduate and graduate degrees in metallurgical engineering and am a licensed professional engineer in Nevada.

While I understand that this hearing is addressing several issues, my testimony will discuss only the new 3809 regulations that became final on the last day of the Clinton Administration. I will talk about the impacts from those regulations and some of the changes that need to be made so that the 3809 regulations are legal and practical.

The Women=s Mining Coalition has been an active participant in the long debate over changes to BLM=s 3809 regulations. We submitted detailed written comments on the proposed regulations in 1999, and additional comments in February, 2000, after Congress directed the BLM to reopen the comment period to allow comments on the report from the National Academy of Sciences. We also submitted detailed scoping comments to the BLM in 1997. Many individual members attended and made statements at public hearings in Nevada and other states. We do not believe that the final regulations that were adopted in January, 2001 fairly addressed our concerns or reflected our comments and we were pleased that the National Mining Association and the State of Nevada decided to challenge the final rules in court.

Naturally then, we support the BLM=s recent proposal to suspend portions of the new rules and will be submitting comments on behalf of the Women=s Mining Coalition before the May 7, 2001 comment deadline. A review of the new 3809 regulations is appropriate for at least two reasons: first, some of the final rules exceed BLM=s legal authority; and second, some provisions of the rules will have significant adverse impacts on the mining industry and its employees, in exchange for very little environmental benefit.

## The National Academy of Sciences Report

In reviewing the new 3809 regulations, the most important information for the Subcommittee and the BLM to consider is the report of the National Research Council of the National Academy of Sciences. As you know, in 1998, Congress directed the National Academy of Sciences to study the effectiveness of the current regulations. The NAS convened a Committee of independent scientific and technical experts to conduct the study. The Committee held hearings, toured mines, and considered a mountain of data and information. The Committee's report, issued in 1999, concluded that the current regulations were generally effective, but recommended a few specific changes. The NAS Committee also concluded that improved implementation of the existing regulations presents the greatest opportunity for improving environmental protection and the efficiency of the regulatory process. Members of the Women's Mining Coalition appeared before the Committee, and as a group we were and remain supportive of its conclusions and recommendations.

In 1999 and again in 2000, Congress enacted a law that limited BLM's authority to promulgate new 3809 regulations. BLM was allowed to write regulations that were not inconsistent with the recommendations in the NAS Report and BLM's other statutory authorities. Somehow the Interior Department lawyers read that law to give BLM unlimited authority to write the final 3809 rules even if those rules were in conflict with or went beyond the recommendations of the NAS Committee. Thus, despite the law passed by Congress, the final 3809 regulations are not consistent with the recommendations contained in the NAS Report.

I want to address a few specific provisions in the final rules that are inconsistent with the recommendations of the NAS Report and which will have a significant impact on mining in Nevada and other public land states.

## The Mine Veto Provision

Of course, you are familiar with the economic impacts projected from the new 3809 regulations. Even by BLM's own predictions which seriously understate the impacts the impacts are severe. As a result of these regulations, up to 3,200 Nevadans are expected to lose their jobs, industrial output in Nevada will decline by between \$180 and \$540 million, and Nevadans will lose between \$83 and \$249 million in personal income.

The Women's Mining Coalition believes that these impacts are understated because the BLM never acknowledged the impact that some of the provisions particularly the mine veto provision will have on mineral exploration and development. Development of a new mining property requires significant investment and expenditure before a single ounce, pound or ton can be mined and sold. That investment is at risk until the mine is fully permitted and becomes operational.

Under the prior 3809 regulations, mine operators could plan and design to meet reasonably objective criteria: water quality standards, air quality standards, revegetation and reclamation requirements. We were assured that if an operator could meet those standards, as evidenced by appropriate federal and state environmental and reclamation permits, that the plan of operations would be approved.

That assurance is gone. The mine veto provision injects a significant new element of risk into mine

permitting by allowing BLM to disapprove a mine plan. Even a plan that meets all applicable environmental requirements. If BLM determines that the impacts may be too significant. Mine operators have no standards that will assure an approved plan, and investors have no assurance that BLM or an anti-mining special interest group will not discover a new resource or new impact even after tens of millions of dollars have been invested in exploration, engineering and permitting. Prudent investors will redirect their investment dollars into less risky investments and the flow of money into mineral exploration on public lands in the U.S. will simply dry up. Even though the mine veto provision surfaced for the first time last November when BLM published the final rule, we can already see the impacts. Mining exploration dollars are moving out of the United States. Drill rigs, geologists, landmen, and suppliers, in Nevada are idle.

For those of us who live and work in Northern Nevada the impacts are obvious. Larger companies have slashed exploration budgets and smaller companies may not be doing any exploration this field season. Suppliers and businesses that rely on the mining industry are cutting back and state and local government revenues are down.

### **Duplicative Environmental Standards**

A second concern with the new 3809 regulations is the complex and lengthy environmental standards that duplicate authority already held by federal and state environmental agencies. In the new 3809 regulations, BLM has assumed that its role as land manager also gives it the authority to second guess or overrule decisions by the federal Environmental Protection Agency, Army Corps of Engineers, and the Nevada Division of Environmental Protection. These duplicative permitting requirements are wasteful, costly and unnecessary.

The NAS Committee considered the issue of environmental standards and the allocation of permitting responsibilities and concluded as follows:

The overall structure of the federal and state laws and regulations that provide mining-related environmental protection is complicated, but generally effective. The structure reflects regulatory responses to geographic differences in mineral distribution among the states, as well as the diversity of site-specific environmental conditions. It also reflects the unique and overlapping federal and state responsibilities.

NAS Report at pages 89-90.

The NAS Report did not recommend that BLM expand its role in environmental permitting or review environmental permitting by other federal and state agencies.

Many of the performance standards in the final regulations are also in conflict with the NAS Report's recommendation that BLM should continue to base . . . permitting decisions on the site-specific evaluation process provided by NEPA, rather than writing technically prescriptive standards into the regulations. NAS Report at 108.

Importantly, BLM did not find fault with the current environmental standards or claim that the new environmental performance standards will achieve substantial environmental benefits. BLM's Final EIS on

the final rules acknowledges that the existing laws and regulations in Nevada already incorporate most of the performance standards in the new regulations. BLM also admits that the new requirements will not result in environmental improvements. Instead, the predicted environmental benefits from the new regulations result from the fact that there will be less mining because of the increased delays and costs of permitting.

### **Sensible Changes to the 3809 Regulations Will Not Damage the Environment**

I have been disappointed by the response of special interest groups and the press (even here in Nevada) to the proposal to reconsider some provisions of the 3809 regulations. It is important that the Subcommittee understand that sensible changesCchanges that will bring the regulations in line with BLM=s legal authority and the NAS ReportC will continue to provide, and even enhance, environmental protection.

Most importantly, I have read claims that the proposal will repeal bonding requirements and allow mining companies to walk away from their reclamation responsibilities, leaving federal and state taxpayers to pay reclamation costs. That is not true. Bonding to assure that mined lands are reclaimed is required under the prior BLM rules and under Nevada law. Those requirements would survive even if the new 3809 regulations were entirely suspended. However, the new 3809 regulations expanded the current bonding requirements in response to recommendations of the NAS Committee. The Women=s Mining Coalition (and almost everyone else in the mining industry) supported those changes and will ask BLM to retain the expanded bonding requirements.

Special interest groups also claim that the proposal could damage water quality. That is also untrue. The regulations adopted by BLM in 1980 require that mine operators comply with all federal and state laws and regulations regarding water quality. That means that all mines are subject to the requirements of the Federal Clean Water Act, as well as Nevada=s laws, regulations, water quality standards and permitting requirements. Suspending the new 3809 rules will not change the substantive water quality standards that apply to mining. Because the 1980 regulations were written to incorporate water quality requirements by reference, they are constantly and automatically updated when EPA or the states change their water quality laws or regulations. The claim that the 3809 regulations are Aoutdated@ is untrue.

### **Conclusion**

The Women=s Mining Coalition asks that Congress continue to support the conclusions and recommendations of the NAS Report B in its entirety. For example, we believe that the regulatory program described in the ANAS Alternative@ in the Final EIS on the 3809 regulations accurately reflects the conclusions and recommendations of the report and complies the Congressional directive that BLM adopt regulations consistent with the NAS recommendations. We believe that the current regulatory system, bolstered by the specific recommendations of the NAS Committee will allow for environmentally responsible mining on public lands. If the Federal Government does not adopt policies that are more supportive of mining, we fear that future opportunities for women to work in the domestic mining industry will evaporate.

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